

**BEFORE THE STATE OF ARIZONA
BOARD OF CHIROPRACTIC EXAMINERS**

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| In the Matter of: Gerard Hefferon, D.C. Holder of License No.: 7656 For the Practice of Chiropractic In the State of Arizona Respondent | Case No. 2017-045 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR PROBATION |
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INTRODUCTION

Pursuant to A.R.S. § 32-924 (F - I), the State of Arizona Board of Chiropractic Examiners ("Board") held a Formal Interview for Gerard Hefferon, D.C. ("Respondent") on July 18, 2018. Respondent voluntarily appeared before the Board and was not represented by legal counsel. The patient (DC), and three other witnesses for the State were present at that time. Mr. Bohall, Executive Director for the Board was also present as a witness for the State.

After due consideration and deliberation of the facts and law applicable to this matter, the Board voted to substantiate several allegations of unprofessional conduct and now issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of Chiropractic in the State of Arizona.
2. Respondent is the holder of Arizona Chiropractic License No. 7656, and PMMTP certificate No. 4655.
3. On or about March 21, 2018, the Board conducted the initial review in the matter. The Board voted the case forward to a formal interview.
4. Respondent failed to comply with a Board subpoena to appear at the March 21, 2018, Board Meeting.

1 5. Respondent stated that he was unable to locate various parts of the patient's file
2 that were saved on the clinic's computer or in paper files.

3 6. Respondent failed to provide copies of requested patient records to Patient DC
4 within ten days as required by law.

5 7. Respondent failed to comply with a Board subpoena to provide patient records.

6 8. The Board determined that Respondent's actions fell below the standard of care
7 in that the Respondent did not take appropriate measures to properly ensure that a patient's
8 records, either electronic or in paper form, were maintained in accordance with A.A.C.
9 R4-7-902(6).

10 9. The Board reviewed the Respondent's advertising. The Board expressed concern over
11 the Respondent's advertised statements regarding energy healing, mind re-augmentation and
12 energy psychology. The Board determined that energy healing, mind re-augmentation and
13 energy psychology does not fall within the scope of chiropractic.

14 10. The Board reviewed the Respondent's website, facebook, and advertising videos and
15 noted that the Respondent advertisements contain false or misleading information and false
16 statements.

17 CONCLUSIONS OF LAW

18 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-900, et seq.

19 2. The conduct and circumstances in the Findings of Fact constitutes grounds for
20 discipline pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable conduct of a
21 character likely to deceive or defraud the public or tending to discredit the profession.")

22 3. The conduct and circumstances in the Findings of Fact constitutes grounds for
23 discipline pursuant to A.R.S. § 32-924(A)(13) ("Advertising in a false, deceptive or misleading
24 manner.")

25 4. The conduct and circumstances in the Findings of Fact constitutes grounds for
26 discipline pursuant to A.R.S. § 32-924(A)(15) ("Any conduct or practice contrary to recognized
27 standards in chiropractic or any conduct or practice that constitutes a danger to the health,
28 welfare or safety of the patient or the public or any conduct, practice or condition that impairs
the ability of the licensee to safely and skillfully practice chiropractic.")

5. The conduct and circumstances in the Findings of Fact constitutes grounds for

discipline pursuant to A.R.S. § 32-924(A)(5) as it pertains to A.A.C. R4-7-901(3)
 (“...[A]dvertising that is likely to deceive or defraud the public...”)

6. The conduct and circumstances in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-924(A)(5) as it pertains to A.A.C. R4-7-902(5) (“Failing to create an adequate patient record that includes the patient's health history, clinical impression, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, notes for each patient visit, and a billing record. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient.”)

7. The conduct and circumstances in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-924(A)(5) as it pertains to A.A.C. R4-7-902(6) (“Failing to maintain the information required by subsection (5) for a patient, for at least six years after the last treatment date, or for a minor, six years after the minor’s 18th birthday, or failing to provide written notice to the Board about how to access the patient records of a chiropractic practice that is closed by providing, at a minimum, the physical address, telephone number and full name of a person who can be contacted regarding where the records are maintained, for at least six years after each patient's last treatment date or 18th birthday.”)

8. The conduct and circumstances in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-924(A) (5) as it pertains to A.A.C. R4-7-902(7)(A) (“Failing to: Release a copy of all requested patient records under subsection (5), including the original or diagnostic quality radiographic copy x-rays, to another licensed physician, the patient, or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so.”)

9. The conduct and circumstances in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-924(A)(5) as it pertains to A.A.C. R4-7-902(14) (“Failing to timely comply with a board subpoena pursuant to A.R.S. § 32-929 that authorizes Board personnel to have access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities.”)

10. The conduct and circumstances in the Findings of Fact constitutes grounds for

discipline pursuant to A.R.S. § 32-924(A)(16) ("Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter or any board order.")

ORDER

Based upon the above Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED:**

1. Chiropractic License No. **7656** issued to Respondent to practice chiropractic in the State of Arizona shall be placed on **PROBATION** for **two (2) years**.
2. The terms and conditions of the Order of Probation are as follows:
 3. **Civil Penalty** - Within **six (6) months** from the effective date of this order, Respondent shall pay a civil penalty of **Two Thousand Dollars (\$2000)** by certified check or money order made payable to the State of Arizona Board of Chiropractic Examiners.
 3. **Cost of Investigations** - Within **thirty (30) days** from the effective date of this order, Respondent shall pay the cost of investigation of this case to the Board in the amount of **Eight Hundred Forty-Three Dollars (\$843)** by certified check or money order made payable to the State of Arizona Board of Chiropractic Examiners, according to the provisions of A.R.S. § 32-906(A).
 4. **Continuing Education** - During the term of probation, Respondent shall take and complete **six (6) hours** of continuing education (C.E.) in **record keeping and billing** that have been pre-approved by Board staff. Respondent shall submit a request for approval of the course to Board staff and provide the Board with satisfactory proof of attendance within fifteen (15) days after completing the C.E. The CE must be completed through live classroom or one on one instruction. Distance learning courses such as online courses or webinars shall not be accepted. These hours of C.E. are in addition to the mandatory hours of C.E. required of Respondent for license renewal;
 5. **Continuing Education** - During the term of probation, Respondent shall take and complete **two (2) hours** of continuing education (C.E.) in **Diagnosis** that have been pre-approved by Board staff. Respondent shall submit a request for approval of the course to Board staff and provide the Board with satisfactory proof of attendance within fifteen (15) days after completing the C.E. The CE must be completed through live classroom or one on one instruction. Distance learning courses such as online courses or webinars shall not be accepted.

1 These hours of C.E. are in addition to the mandatory hours of C.E. required of Respondent for
2 license renewal;

3 **6. Advertising - Within thirty (30) days**, Respondent shall remove and cease publishing
4 any form of media advertising, including but not limit to videos, social media posts, and print
5 media, that discuss energy healing, mind re-augmentation and energy psychology in which
6 Respondent is acting in a capacity as a Chiropractic Physician. Respondent shall submit the
7 changes made in Respondent's advertising for review and approval from the Board's Executive
8 Director within forty-five (45) days of the effective date of this order.

9 **7. Costs of Compliance** - Respondent shall bear all costs required to ensure his
10 compliance with this Order to include, but not limited to, the cost of the Board-approved
11 monitor, required education, patient treatment, evaluations, and all alcohol and drug testing.

12 **8. Timely Renewal** - Respondent shall meet all requirements to renew his license for each
13 year that he remains on probation and shall keep his license current by submitting a complete
14 license renewal application to the Board prior to January 1 for each year that he remains on
15 probation.

16 **9. Obey All Laws** - Respondent shall obey all federal, state and local laws and all rules
17 governing the practice of chiropractic in Arizona. The Board shall consider any violation of this
18 paragraph as a separate violation of the Chiropractic Practice Act.

19 **10.** This Order is a public record that may be publicly disseminated as a formal action of the
20 Board and shall be reported as required by law to the National Practitioner Data Bank. The
21 Board shall provide copies of this order to the Arizona State Board of Massage Therapy and the
22 Arizona Board of Psychologist Examiners.

23 **11.** The Board retains jurisdiction over Respondent and may take additional remedial or
24 disciplinary action against the respondent if it determines that subsequent violations of this
25 Order or of the Chiropractic Practice Act have been committed. Respondent shall appear in
26 person before the Board to respond to questions or concerns regarding compliance with this
27 Order when requested.

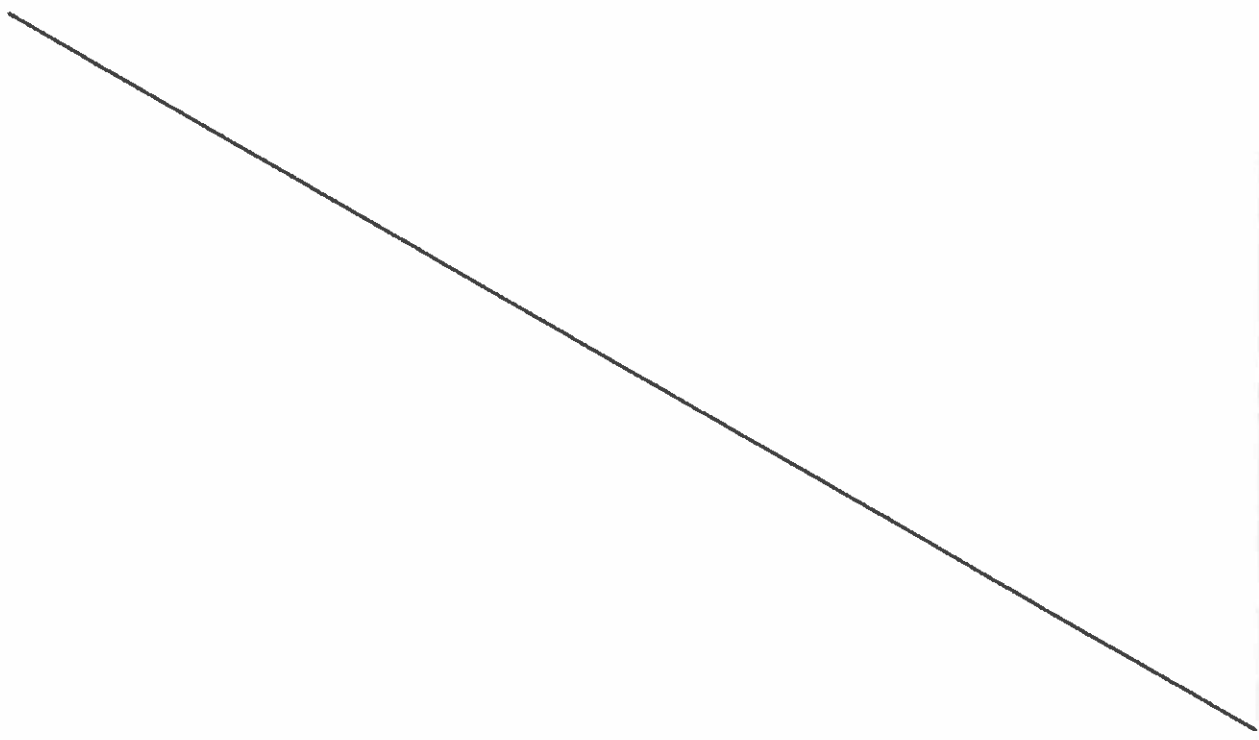
28 **12. Non-Compliance.** If Respondent violates this Order in any way or fails to fulfill the
requirements of this Order, the Board, after giving notice and the opportunity to be heard, may
revoke, suspend or take other disciplinary actions against the registration. The issue at such a

1 hearing will be limited solely to whether this Order has been violated.

2 **13. Early Termination** - The respondent may petition the Board for early termination of
3 probation provided that the respondent has completed or complied with Paragraphs 3 to 12.
4 Upon receiving Respondent's petition, the Board shall have complete discretion to determine
5 whether Respondent has complied with all the required terms and conditions of the Order prior
6 to granting the petition. Respondent's failure to petition the Board to terminate probation shall
7 cause it to continue beyond the two-year period, until the respondent petitions for termination.

8 **NOTICE:** This Order constitutes a formal decision and order of the Board. If the
9 Respondent desires to challenge the Order, Respondent shall file a written motion for rehearing
10 with the Board's Executive Director within thirty (30) days after service of the Order. Service
11 of the Order is effective five days after the date of mailing to Respondent. Under A.A.C.
12 R4-7-305 (C), the motion for rehearing must state with specificity the grounds for rehearing.
13 Failure to file a motion for rehearing or review has the effect of prohibiting judicial review of
14 the Board's Order, according to A.R.S. § 41-1092.09 (B) and A.R.S. § 12-904 et seq.

15 This Order shall be effective and in force upon the expiration of the above time period
16 for filing a motion for rehearing or review with the Board.



1 DATED AND EFFECTIVE this 4th day of September, 2018.

2 STATE OF ARIZONA BOARD OF
3 CHIROPRACTIC EXAMINERS



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14 James Badge, D.C., Chairman
15 State of Arizona Board of
16 Chiropractic Examiners

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Original of the foregoing filed this
8th day of August, 2018, with:
State of Arizona Board of Chiropractic Examiners
1740 West Adams Street, Suite 2430
Phoenix, Arizona 85007

Executed Copy of the foregoing mailed by U.S. certified mail
this 8th day of August, 2018, to:

Gerard Hefferon, D.C.
SynerChi Systems Inc
929 N. Val Vista Dr. Ste C109
Gilbert, Arizona 85234
Respondent
Certificate No. 7015 3430 0000 3430 4777

Sent electronically to:
Michael Raine, Assistant Attorney General
Michael.Raine@azag.gov
Attorney for the State

Justin Bohall, Executive Director
Board Operations

